

REMARKS:

This application has been carefully studied and amended in view of the Office Action dated September 2, 2005. Reconsideration of that action is requested in view of the following.

Claims 1-6 have been canceled to advance the prosecution of this case. Accordingly, the rejection of those claims under 35 USC 112 and over the prior art is moot.

From a reading of the Office Action it appears that the examiner overlooked the preliminary amendment which was filed on May 13, 2004. In that regard, the preliminary amendment contained the Certificate of Mailing stamp and was referred to in the self-addressed return postcard, as reflected by the cover page of the amendment and the copy of the postcard.

The purpose of the preliminary amendment was to replace claim 6 with claims 7-10 so as to use terminology more clearly directed to the method aspects of the invention. In that regard, claim 6 had referred to the method practice in terms of the "use" of the protective gas.

In order to advance the prosecution of this case, claim 7 has been amended to point out that the protective gas is a gas having a temperature less than ambient temperature. To complete the claim coverage claims 11 and 12 have been added. Claim 11 is dependent on claim 10 and refers to the gas as being nitrogen. This is similar to original claim 5. Claim 12 is dependent on claim 9 and refers to the gas as being helium. This is similar to original claim 3.

It is respectfully submitted that parent claim 7 and its dependent claims 8-12 are patentable over the prior art and in particular over the references relied upon in the rejection of claims 1-6. As noted above, claim 7 now refers to the cold gas as being a gas which is at a temperature less than ambient temperature. Support for this feature is found in the specification which points out that in the prior art helium had been used "at a temperature that corresponds to the ambient temperature". With the practice of the invention, however, a protective gas is used which is a cold gas and specific examples of temperatures are given with regard to nitrogen and helium. Clearly then if the prior art uses a gas which is at the ambient temperature then a cold gas would be less than the ambient temperature.

U.S. Patent No. 5,603,853 (Mombo-Caristan) is directed to a method of welding at least two sheets. Although the complete disclosure of Mombo-Caristan is directed to laser-beam and electron-beam welding, the part of the disclosure which is cited by the Examiner (column 9, lines 21-42) is directed to the welding of sheets by a focused laser beam 34. Consequently claim 7 in its amended form is not anticipated by Mombo-Caristan as no method of electron-beam welding is disclosed. Furthermore, Mombo-Caristan does not disclose the temperature of the protected gas so that at least this feature leads to the conclusion that claim 7 in its amended form is not anticipated by Mombo-Caristan.

The same applies to Royle, as here only the protective gas helium is disclosed for electron-beam welding but in no way at the temperature of the claimed protective gas (compare column 2, lines 39-47).


Consequently, claim 7 in its amended form is not anticipated by Royle.

Both Mombo-Caristan and Royle deal with protective gases that have ambient temperature as no temperature whatsoever is disclosed in these two documents. Consequently, one skilled in the art would not be directed to temperatures of the protective gas that are lower than ambient temperature, as defined in claim 7.

For the reasons submitted above this application should be passed to issue.

Respectfully Submitted,

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